

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2093.04
COMPLAINT INVESTIGATOR:	Jennifer Campbell
DATE OF COMPLAINT:	February 12, 2004
DATE OF REPORT:	March 10, 2004
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	April 20, 2004

COMPLAINT ISSUES:

Whether the Carmel Clay School Corporation violated:

511 IAC 7-25-5 by failing to take appropriate action when a parent requests an independent educational evaluation (IEE).

FINDINGS OF FACT:

1. The Student is a fifth grade student attending a private school, and is eligible for special education and related services as a student with a learning disability.
2. The Complainants (the parents) requested in writing on October 27, 2003, an independent educational evaluation (IEE) of the student and a list of approved independent evaluators. The letter was mailed on November 20, 2003, and received by the local planning district on November 22, 2003. The School replied in writing on November 24, 2003, and acknowledged receipt of the request without indicating whether the IEE would be at the public expense, and noted that the Complainants did not indicate disagreement with the recent three year re-evaluation of the Student. The Director followed up with a phone call "explaining that the parents needed to disagree with [the School's] evaluation and not simply want additional testing to their 'concerns.'" The School asked the Complainants to identify specific concerns so that the School could address those concerns and determine how to proceed. The Complainants responded in writing on December 3, 2003, and stated they felt their concerns were being attributed by the School to the Student's attention deficit hyperactivity disorder (ADHD) when they felt that their concerns were disabilities that were not related to ADHD. Again, the Complainants requested a list of providers in order to schedule an IEE for the Student. The Parents then sent a request for the IEE in writing to the Superintendent on December 16, 2003. The Superintendent responded in writing on January 6, 2004, and stated that the school corporation was not "refusing to provide an IEE, but that an "IEE is only required of a school when the family objects to the school's evaluation of the student." The Superintendent noted that the local planning district was awaiting specific information from the parents with regard to the "components of the school's evaluation" that the parents disagree with, and once the local planning district received that information they would consider other evaluation options. The Director states that she contacted the Complainants after they sent a letter to the Superintendent by phone. The Parents requested again in writing on January 14, 2004, a list of independent evaluators in order to schedule an IEE.
3. The CCC convened on January 29, 2004. After the CCC meeting, the Director asked the Complainants and their advocate to stay after the meeting to talk about their reasons for requesting an IEE and to help the Complainants write another letter of request for an IEE by suggesting the wording they should use to describe their concerns about the Student's previous evaluations. The Director states the parents must first

disagree with the School's evaluations before the School will agree to an IEE. The Complainants submitted another letter of request, dated January 29, 2004, to the School and stated they were concerned that the School's evaluations "have not adequately addressed [the Student's] processing and/or accessing of information." The Director received their request on February 3, 2004.

4. The Director confirmed in writing on February 18, 2004, in a letter addressed to the Independent Evaluator that the local planning district has agreed to provide the Complainants an IEE for the Student and that the School will pay for this evaluation. The Student has not received an IEE to date.

CONCLUSION

1. Findings of Fact #2 indicates the School received a request for an IEE on November 22, 2003. 511 IAC 7-25-5 requires a public agency to act affirmatively within ten business days of receiving a request for an IEE: either request a due process hearing to justify the denial of the IEE request or notify the parents in writing that the IEE will be at the public expense. Acknowledging receipt of the request without indicating whether the IEE would be at the public expense is an insufficient response under Article 7. Findings of Fact #2 and #3 indicate the school asked the parents to explain their reasons for requesting an IEE. A public agency may inquire of a parent the reasons for requesting an IEE, but the parent is under no obligation to respond or otherwise detail the nature of the parent's disagreement with the public agency's evaluation. Findings of Fact #4 reflects that the School agreed to the IEE after they received the letter of request in which the parents used the wording suggested by the School to describe their reasons for wanting an IEE. The public agency violated Article 7 by creating an unauthorized precondition. Where a parent has requested an IEE, there is no requirement to have the parents explain in writing in language suitable to the school their reasons for requesting an IEE. Therefore a violation of 511 IAC 7-25-5 is found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Carmel Clay School Corporation shall:

1. send a written memorandum to all appropriate staff reminding them of the correct procedures to follow when a parent requests an IEE at public expense. The memorandum shall include all relevant criteria used by the School to determine whether the request will be accepted or a due process hearing initiated. The Division shall receive the copy of the memorandum by April 12, 2004.